

for financing activities and to cover eligible and reasonable costs necessary to administer the RLF, unless otherwise provided for in the Grant agreement or approved in writing by EDA. RLF Income excludes repayments of principal and any interest remitted to the U.S. Treasury pursuant to § 307.17(c)(2)(i).

RLF Third Party for purposes of this subpart B only, means an Eligible Recipient or for-profit entity selected by EDA through a request for proposals or Cooperative Agreement to facilitate and/or manage the intended liquidation of an RLF.

Sale means an EDA-approved sale by an RLF Recipient of its RLF loan portfolio (or a portion thereof) to a third party. A third party may participate in a subsequent Securitization offered in a secondary market transaction and collateralized by the underlying RLF loan portfolio (or a portion thereof).

SEC or the *Commission* means the U.S. Securities and Exchange Commission.

Securitization refers to the financing technique of securing an investment of new capital with a stream of income generated by aggregating similar instruments such as loans or mortgages into a new transferable Security.

Security means any investment instrument issued by a corporation, government or other organization which offers evidence of debt or equity.

§ 307.9 Revolving Loan Fund Plan.

All RLF Recipients shall manage RLFs in accordance with an RLF plan (the "*RLF Plan*" or "*Plan*") as described in this section. The Plan shall be submitted to and approved by EDA and passed by resolution of the RLF Recipient's governing board prior to initial disbursement of EDA funds.

(a) *Format and content.* (1) Part I of the Plan titled "Revolving Loan Fund Strategy" shall summarize the CEDS and business development objectives and shall describe the RLF's financing strategy, policy and portfolio standards.

(2) Part II of the Plan titled "Operational Procedures" shall serve as the internal operating manual for the RLF Recipient. The administrative procedures for operating the RLF must be

consistent with Prudent Lending Practices.

(b) *Evaluation of RLF Plans.* EDA will use the following criteria in evaluating Plans:

(1) The Plan must be consistent with the CEDS or EDA-approved strategy for the Region;

(2) The Plan must identify the strategic purpose of the RLF and must describe the selection of the financing strategy and lending criteria, including:

(i) An analysis of the local capital market and the financing needs of the targeted businesses; and

(ii) Financing policies and portfolio standards that are consistent with EDA policies and requirements; and

(3) The Plan must demonstrate an adequate understanding of commercial loan portfolio management procedures, including loan processing, underwriting, closing, disbursements, collections, monitoring, and foreclosures. It shall also provide sufficient administrative procedures to prevent conflicts of interest and to ensure accountability, safeguarding of assets and compliance with federal and local laws.

(c) *Modification of RLF Plans.* An RLF Recipient must request and obtain EDA approval prior to any modification of the Plan.

§ 307.10 Pre-loan requirements.

(a) RLF Recipients must adopt procedures to review the impacts of prospective loan proposals on the physical environment. The Plan must provide for compliance with applicable environmental laws and other regulations, including but not limited to parts 302 and 314 of this chapter. The RLF Recipient must also adopt procedures to comply, and ensure that potential borrowers comply, with applicable environmental laws and regulations.

(b) RLF Recipients must ensure that prospective borrowers, consultants, or contractors are aware of and comply with the federal statutory and regulatory requirements that apply to activities carried out with RLF loans. RLF loan agreements shall include applicable federal requirements to ensure compliance and RLF Recipients must adopt procedures to diligently correct

instances of non-compliance, including loan call stipulations.

(c) All RLF loan documents and procedures must protect and hold the Federal government harmless from and against all liabilities that the Federal government may incur as a result of providing an RLF Grant to assist directly or indirectly in site preparation or construction, as well as the direct or indirect renovation or repair of any facility or site. These protections apply to the extent that the Federal government may become potentially liable as a result of ground water, surface, soil or other natural or man-made conditions on the property caused by operations of the RLF Recipient or any of its borrowers, predecessors or successors.

§ 307.11 Addition of lending areas; merger of RLFs.

(a)(1) *Addition of lending areas.* An RLF Recipient shall make loans to implement and assist economic activity only within its EDA-approved lending area, as set forth and defined in the RLF Grant and the Plan. An RLF Recipient may add an additional lending area (an “*Additional Lending Area*”) to its existing lending area to create a new merged lending area (the “*New Lending Area*”) only with EDA’s prior written approval and subject to the following provisions and conditions:

(i) EDA shall have disbursed the full amount of its Investment Assistance to the RLF Recipient;

(ii) The Additional Lending Area must fulfill the economic distress criteria for Economic Adjustment Investments under this part and in accordance with § 301.3(a) of this chapter;

(iii) Prior to EDA’s disbursement of additional funds to the RLF Recipient (for example, through a recapitalization), EDA shall determine a new Investment Rate for the New Lending Area based on the criteria set forth in § 301.4 of this chapter;

(iv) The RLF Recipient must demonstrate that the Additional Lending Area is consistent with its CEDS, or modify its CEDS for any such Additional Lending Area, in accordance with § 307.9(b)(1);

(v) The RLF Recipient shall modify its Plan to incorporate the Additional

Lending Area and revise its lending strategy, as necessary;

(vi) The RLF Recipient shall execute an amended RLF Grant award agreement, as necessary; and

(vii) The RLF Recipient fulfills any other conditions reasonably requested by EDA.

(2) The New Lending Area designation shall remain in place indefinitely following EDA approval.

(b) *Merger of RLFs.* (1) *Single RLF Recipient.* An RLF Recipient with more than one (1) EDA-funded RLF Grant may consolidate two (2) or more EDA-funded RLFs into one (1) surviving RLF with EDA’s prior written approval and provided:

(i) It meets the requirements to obtain annual report status identified in paragraphs (a)(2) through (a)(4) of § 307.14 of this chapter;

(ii) It demonstrates a rational basis for undertaking the merger (for example, the lending area(s) and borrower criteria identified in different RLF Plans are compatible, or will be compatible, for all RLFs to be consolidated);

(iii) It amends and consolidates its Plan to account for the merger of RLFs, including items such as the New Lending Area (including any Additional Lending Area(s)), its lending strategy and borrower criteria;

(iv) Prior to EDA’s disbursement of additional funds to the RLF Recipient (for example, through a recapitalization), EDA shall determine a new Investment Rate for the New Lending Area based on the criteria set forth in § 301.4 of this chapter; and

(v) The RLF Recipient fulfills any other conditions reasonably requested by EDA.

(2) *Multiple RLF Recipients.* Two (2) or more RLF Recipients may consolidate their EDA-funded RLFs into one (1) surviving RLF with EDA’s prior written approval and provided:

(i) The surviving RLF Recipient meets the requirements to obtain annual report status identified in paragraphs (a)(2) through (a)(4) of § 307.14 of this chapter;

(ii) The surviving RLF Recipient amends and consolidates its Plan to account for the merger of RLFs, including items such as the New Lending